

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

ASHEVILLE DIVISION

CARYN DEVINS STRICKLAND,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil No. 1:20-cv-00066-WGY
)	
UNITED STATES, <i>et al.</i>,)	
)	
<i>Defendants.</i>)	

MOTION TO DISCLOSE INTERCIRCUIT ASSIGNMENT RECORDS

Plaintiff Caryn Devins Strickland respectfully requests that this Court order disclosure of all intercircuit assignment records for the district court proceeding in this case, including the certificates of necessity. Previously, Defendants disclosed the intercircuit assignment records for the selection of the circuit judges only; they did not produce any records regarding the process whereby the district court judge was selected. *See* Doc. 108, No. 21-1346 (4th Cir.). Defendants also refused to provide the district court records in discovery and have objected to their disclosure.

The intercircuit assignment records bear on the fairness and integrity of this proceeding. At the outset, Strickland’s entire case was sealed *sua sponte* before a judge was designated and assigned. *See* Entry Order Dated Mar. 4, 2020 (“Case sealed at direction of Clerk pending assignment of Judge.”); *see also* Entry Order Dated Mar. 3, 2020 (“Case assigned to Unassigned Judge as of date of case

opening.”). The sealing of her case creates an unfortunate appearance that the case was sealed by officials of the federal judiciary in order to protect Defendants, officials of the federal judiciary, from embarrassment. Because no other reason was given for the *sua sponte* action and none is plausibly apparent, the perception of impropriety is heightened by the fact that the sealing remains unexplained to this day. *See Doe v. Pub. Citizen*, 749 F.3d 246, 268 (4th Cir. 2014).

Defendants possess the district court records by virtue of their roles in the intercircuit assignment process, during which they selected the district court judge. The fact that Defendants possess this information, while Strickland and the public do not, creates a troubling appearance of withholding information that bears on the fairness of this proceeding. To dispel this appearance of impropriety, she requests immediate disclosure of the district court intercircuit assignment records. *See* 28 U.S.C. § 455(e) (requiring “full disclosure” of information bearing on impartiality of judicial proceeding).

Prior to filing this motion, Strickland requested that Defendants simply provide her the records as she requested, or alternatively, provide their position on this motion. Defendants stated: “We have conferred with our clients and they do not agree to produce the requested documents. We therefore maintain Defendants’ objections to RFP No. 37, including that the requested documents are not relevant

to any claim or defense and that the issues relating to the district and circuit court assignment processes were resolved on appeal.”

This the 2nd day of December, 2022.

Respectfully Submitted,

/s/ Jeannie Suk Gersen

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of December, 2022, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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